

**DRAFT: ORDINANCE (9-14-20)**

A City of Missoula initiated ordinance generally amending Title 20, Missoula Municipal Code, the City Zoning Ordinance, to incorporate revisions in the following chapters: 20.05 Residential Districts, 20.25 Overlay Districts, 20.40 Use- and Building-Specific Standards, 20.45 Accessory Uses and Structures, 20.50 Natural Resource Protection, 20.60 Parking and Access, 20.65 Landscaping, 20.75 Signs, 20.80 Nonconformities, 20.85 Review and Approval Procedures, 20.90 Administration, 20.100 Terminology, and 20.105 Use Classifications.

Be it ordained that Section 20.05.040D, Section 20.25.030A.1.d; Section 20.25.075I.2, Section 20.25.075F.1, Section 20.25.080C.6, Section 20.40.050, Section 20.45.060B; Section 20.45.060C; Section 20.45.060D, Section 20.50.010B, Section 20.60.010B, Section 20.60.020C, Section 20.60.060B, Section 20.60.060C, Section 20.60.070, Section 20.65.020C.1.d, Section 20.65.100B.2, Section 20.75.070F.1, Section 20.75.100B.5, 20.75.110A, Section 20.80.030F; Section 20.85.020D, Section 20.85.020E, Section 20.85.040C, Section 20.85.040I, Section 20.85.070D, Section 20.85.070 E, Section 20.85.070G, Section 20.85.070H, Section 20.85.070I, Section 20.85.070M, Section 20.85.080E, Section 20.85.085E, Section 20.85.090E, Section 20.85.095D, Section 20.85.100F, Section 20.85.110D, Section 20.85.110E.2, 20.90.020C.1, Section 20.100.010, and Section 20.105.030 be amended as follows.

#1. 20.25 – Overlay Districts

**20.25.030 - /PUD, Planned Unit Development Overlay**

A. **Purpose**

1. **General**

d. **Affordable Housing**

~~Developments in which at least 20% of the total number of dwelling units are affordable to households earning 80% or less of the Missoula County median income, as determined by the U.S. Department of Housing and Urban Development (HUD).~~

Development that meets the definition of Affordable Housing found in Chapter 20.100.

**Explanation:**

Proposed amendment #11 will redefine Affordable Housing using Missoula's adopted Housing Policy. Amending the definition of "Affordable Housing" requires amendments throughout Title 20, including the above, to make the regulations consistent.

#2. 20.45 – Accessory Uses and Structures

**20.45.060 – Accessory Dwelling Units**

B. **Regulations for all Accessory Dwelling Units**

~~3. **Permit Requirement**~~

~~An Accessory Dwelling Unit Permit is required for all ADUs. The Accessory Dwelling Unit Permit expires December 31st of each year and can be renewed by completing the renewal form prescribed by the Zoning Officer. All accessory~~

~~dwelling units shall also be subject to the condition that such a permit shall automatically expire whenever:~~

- ~~a. The accessory dwelling unit is substantially altered and is thus no longer in conformance with the plans approved by the Development Services Director;~~
- ~~or~~
- ~~b. The subject lot ceases to maintain the required off-street parking spaces; or~~
- ~~c. The applicant ceases to own or reside in either the principal or the accessory dwelling unit.~~

**Explanation:**

The annual permitting process was put in place to monitor owner occupancy and parking requirements, which are proposed to be removed. Without occupancy and parking requirements in place, requiring an annual permit is both unnecessary and time consuming for staff members. In addition, the proposed amendment will help forward the adopted Housing Policy.

**#3. 20.45 – Accessory Uses and Structures**

**20.45.060 - Accessory Dwelling Units**

**B. Regulations for all Accessory Dwelling Units**

~~4. Owner Occupancy~~

~~The principal or accessory dwelling unit must be occupied by the owner of the subject parcel. Before final occupancy of the accessory dwelling unit, the property owner must record an affidavit and deed restriction, in a form approved by the city attorney, stating that the property owner will reside on the property, in either the principal or accessory dwelling unit. Once recorded, the deed restriction (requiring owner occupancy) may not be removed or modified without City Council approval.~~

- ~~a. The principal or accessory dwelling unit must be occupied by the owner of the subject parcel. Before building permit approval of the accessory dwelling unit, the property owner must record an affidavit and deed restriction, in a form approved by the city attorney, stating that the property owner will reside on the property, in either the principal or accessory dwelling unit. The deed restriction shall be binding upon any successor in ownership of the property. Once recorded, the deed restriction (requiring owner occupancy) may not be removed or modified without City Council approval.~~
- ~~b. With respect to accessory dwelling units, "owner occupancy" means a property owner, as reflected in real property records, who makes his or her legal residence at the site, as evidenced by voter registration or similar means and actually resides at the site more than six months out of any given year. Owner occupancy may also include a named natural person with an ownership or benefit in a private trust. The Development Services Director may waive this requirement for temporary absences of greater than six months for military service, employment sabbatical, or family medical leave qualified absences. Temporary leave waivers for other reasons must be reviewed and approved by the City Council.~~
- ~~c. Owner occupancy does not extend to corporate trusts.~~

**Explanation:**

The current requirement dissuades some potential ADU developers who may not plan to occupy the home long-term and when a property owner no longer resides on site, a potential rental unit must be removed from the market for little or no community benefit. The recordation of deed restrictions can complicate the process of obtaining financing or limit the types of mortgage financing available for the home when resold to a new buyer. Additionally, the amendment helps to forward the adopted housing policy.

#4. 20.45 – Accessory Uses and Structures

**20.45.060 - Accessory Dwelling Units**

**B. Regulations for all Accessory Dwelling Units**

**10. Parking**

~~At least one paved off-street parking space must be provided for an accessory dwelling unit, in addition to the required off-street parking for the principal dwelling unit. If the parcel abuts an alley, access to the new parking must come from the alley. No additional parking space is required for an accessory dwelling unit.~~

**Explanation:**

Removing the need for an additional parking space allows landowners the benefit of using limited land area for additional housing without having to create a parking space that may reduce the square footage available for the proposed unit. This will allow more flexibility to increase housing stock and forward the Housing Policy. Existing parking that meets the requirement for the primary house will still need to be maintained or replaced.

#5. 20.45 – Accessory Uses and Structures

**20.45.060 - Accessory Dwelling Units**

**B. Regulations for all Accessory Dwelling Units**

~~118.~~ **Size**

**a. Detached ADU**

- (1) The floor area of a new detached accessory dwelling unit may not exceed the maximum of 600 square feet ~~or be less than 350 square feet.~~
- (2) When a new detached accessory dwelling unit is created within an existing detached accessory structure that was built after June 5, 2013, the maximum size of the accessory dwelling unit may not exceed the square footage stated in Section 20.45.060.B.~~118.~~a(1).
- (3) When a new detached accessory dwelling unit is created within an existing detached accessory structure that was built prior to June 5, 2013, there is no limit to the floor area unless the conversion adds to the floor area of the existing detached accessory structure in which case the maximum size cannot exceed the square footage stated in Section 20.45.060.B.~~118.~~a(1).

b. **Internal ADU**

The floor area of an internal accessory dwelling unit that does not increase the floor area or footprint of the primary dwelling unit may not exceed 40% of the gross floor area, excluding an attached garage, of the primary dwelling unit and may not be more than 600 square feet, ~~or be less than 350 square feet.~~

c. **Internal addition ADU**

The floor area of an internal addition accessory dwelling unit shall not increase the footprint or floor area of the existing primary dwelling unit by more than 600 square feet or exceed 40% of the gross floor area, excluding an attached garage, of the primary dwelling unit including the addition.

**Explanation:**

Removing the minimum square footage of 350 square feet may encourage the use of tiny homes, provide another opportunity for homeownership, and will forward the housing policy. Cross references are also update.

#6. 20.45 – Accessory Uses and Structures

**20.45.060 - Accessory Dwelling Units**

C. **Special Regulations for Detached Accessory Dwelling Units**

3. **Height**

The maximum height allowed for a detached accessory dwelling unit is ~~22-25~~ feet ~~or the height of the primary (detached house) building, whichever is less.~~

**Explanation:**

The language currently limits detached accessory dwelling units to 22 feet or the height of the primary building whichever is less. This amendment will remove the connection to the primary building and raise the maximum height for a detached ADU to 25 feet. These amendments will make it easier to place an ADU on top of an existing accessory structure, such as a garage, and will help create a more usable space.

After receiving comment, staff is now proposing to allow an ADU to be as tall as 25' rather than 22'.

#7. 20.45 – Accessory Uses and Structures

**20.45.060 - Accessory Dwelling Units**

C. **Special Regulations for Detached Accessory Dwelling Units**

5. **Conversion of Existing Detached Accessory Structures**

b. **Existing Detached Accessory Dwelling Unit Structures ~~Permitted By Right~~**

If the accessory dwelling unit is ~~permitted by right and~~ proposed to be located within an existing detached accessory structure that does not meet one or more of the standards of 20.45.060.B.~~12-9~~ through 20.45.060.B.~~1411~~, the structure is

exempt from the standard it does not meet. If any floor area is added to the detached accessory structure, the entire structure must meet the standards of 20.45.060.B.12-9 through 20.45.060.B.1411.

**Explanation:**

In 2018, amendments were adopted into Title 20 permitting ADUs by right in all zoning districts. The proposed amendment removes unnecessary language and is housekeeping. In addition, all cross references will be updated.

#8. 20.45 – Accessory Uses and Structures

**20.45.060 - Accessory Dwelling Units**

**D. Existing Illegal Accessory Dwelling Units**

- ~~1. It is recognized that although unlawfully occupied, currently utilized accessory dwelling units are filling a market demand for housing. A grace period is established to promote conversion of illegal units to lawful ADUs, for the purpose of protecting and promoting the public health, safety and general welfare of the community.~~
  - ~~2. An accessory dwelling unit created prior to June 5, 2013 may be recognized as lawful upon review and approval of a zoning compliance application and issuance of a zoning and building permit.~~
  - ~~3. Criteria for accessory dwelling units being considered as potentially eligible for a grace period:
    - ~~a. A parcel of land containing a dwelling unit for which there does not exist a validly issued variance, conditional use approval or zoning compliance permit and that was in existence on a parcel of record as of June 5, 2013.~~
    - ~~b. A parcel of land containing a dwelling unit that does not qualify as a nonconforming use or structure and that was in existence on a parcel of record as of June 5, 2013; or~~
    - ~~c. A parcel of land containing a dwelling unit which was in existence as of June 5, 2013, and which has been cited by Development Services as being in violation of the Zoning Ordinance.~~~~
  - ~~4. Beginning on the effective date of this ordinance, a grace period of 12 months is established for the submission of applications for existing illegal accessory dwelling units. Property owners who submit an application for consideration during this 12-month grace period shall not be subject to any applicable fines or enforcement action, after which time the City of Missoula will pursue action on confirmed illegal accessory dwelling units.~~
- ~~;sz=8;Codifier's note: The ordinance referred to in this paragraph went into effect on June 5, 2013.~~
- ~~5. Existing illegal accessory dwelling units, which do not apply for and/or do not receive zoning compliance permit approval for an ADU use, are subject to all applicable fines and/or enforcement actions as outlined in Chapter 20.95 Violations, Penalties and Enforcement.~~

**Explanation:**

This section of code expired in 2014 and is no longer relevant. The amendment removes existing language and is housekeeping.

## #9. 20.60 – Parking and Access

**20.60.020 - Required Motor Vehicle Parking****C. Off-Street Parking Schedule****Table 20.60-1 Off-Street Parking Schedule**

Use Category ↳ specific use type	Minimum Motor Vehicle Off-Street Parking Ratio
<b>RESIDENTIAL</b>	
<b>Table Continues .....</b>	
↳ Detached House , Townhouse ( <del>subsidized affordable housing</del> + 1,250 sq. ft. or more)	2 spaces per dwelling unit
↳ Detached House, Townhouse ( <del>subsidized affordable housing</del> + under 1,250 sq. ft.)	1 space per dwelling unit
<b>Table Continues .....</b>	
↳ Multi- dwelling unit (55 years of age + <del>subsidized affordable housing</del> )	0.5 spaces per dwelling unit
↳ Multi- dwelling unit ( <del>subsidized affordable housing</del> + 2,000 sq. ft. or more)	1.5 spaces per dwelling unit
↳ Multi- dwelling unit ( <del>subsidized affordable housing</del> + 850 sq. ft. — 1,999 sq. ft.)	1.0 spaces per dwelling unit
↳ Multi- dwelling unit ( <del>subsidized affordable housing</del> + under 850 sq. ft.)	0.75 spaces per dwelling unit
<b>Table Continues .....</b>	
↳ Accessory Dwelling Unit	<del>1 space accessory dwelling unit + 2 spaces primary dwelling unit (lawfully established primary dwelling units in single dwelling zoning districts that lack 2 spaces must add off street parking to a total of 3 spaces)</del>

**Explanation:**

Proposed amendments to the off-street parking schedule reflect other proposed amendments made in other sections allowing Title 20 to support Missoula’s adopted Housing Policy. Staff is proposing to remove Section 20.45.060B.10 requiring a parking space for an accessory dwelling unit, and to replace the definition of subsidized with a new definition of affordable housing.

Title 20 already allows reduced parking for subsidized housing using HUD and MBH standards. With the recent passing of the City’s Housing Policy, Missoula now has a more specific measurement of what is considered subsidized. The proposed amendment will allow further reduction in required parking spaces for units meeting the definition of Affordable Housing.

As noted in amendment #4, existing parking that meets the requirement for the primary house will still need to be maintained or replaced.

#10. Chapter 20.80 - Nonconformities

**20.80.030 - Nonconforming Structures**

- F. **Conversion or replacement of an Accessory Structure to an Accessory Dwelling Unit**  
Legally established existing accessory structures may be converted, replaced, or expanded to accommodate an accessory dwelling unit.
  - 1. An accessory structure that is nonconforming because it encroaches into, side or rear setbacks may be expanded vertically to a maximum of 25’, and horizontally for up to 16 feet along the existing nonconforming building line.
  - 2. In new construction, when building height or length is increased within a side setback, doors and windows on the wall facing the subject side setback are prohibited closer than ten feet from the adjacent building or required setback for the adjacent building, whichever is closer.
  - 3. All other development standards of. 20.45.060 shall apply

**Explanation:**

Language will be included to allow an existing accessory structure that may be nonconforming, because it is placed inside the setback, to be replaced, and will allow existing or new structures an opportunity to expand along that established line subject to conditions, in order to support an ADU. All other standards in the ADU chapter will continue to apply including size limits and architectural requirements. This language is modeled after the approach we took for improvements to existing non-conforming primary residences.

#11. Chapter 20.100 – Terminology

**20.100.010 - General Terms**

Subsidized

~~Financing provided by the US Department of Housing and Urban Development (HUD) or the Montana Board of Housing (MBOH) expressly for the purpose of providing housing to low- to moderate-income households.~~

Affordable Housing

For the purposes of Title 20, affordable housing means a development that has been approved by the Office of Housing and Community Development, as a Tier 1 or Tier 2 project within the affordable housing incentive program established by the Office of Housing and Community Development.

Single Dwelling Unit Development Incentive Tiers

For Sale

Tier 1 – For sale housing below 80% AMI\*, rental housing below 60% AMI

Tier 2 – For sale housing below 120% AMI, rental housing below 80% AMI or

Voucher preference unit

Multiple Dwelling Unit Development Incentive Tiers

Rental

Tier 1 – 75% of units below 60% AMI or qualifying LIHTC projects

Tier 2 – 25% of units below 80% AMI

Ownership

Tier 1 – 10% of units below 80% AMI, 25% at 120% AMI in projects <10 units

Tier 2 – 25% of units below 120% AMI

\* AMI - Area Median Income for the Missoula area as defined by the U.S. Department of Housing and Urban Development and administered by Missoula Housing and Community Development.

**Explanation:**

Using a local definition of “affordable” will enable the Office of Housing and Community Development to develop programs that are nimble and responsive to the unique needs of Missoula, rather than being held to a federal definition of subsidized that does not represent the housing challenges facing Missoulians.



#12. 20.25 – Overlay Districts

**20.25.075 - /NC-MDP, Missoula Development Park Overlay**

I. **Boulevard Landscaping Standards**

2. Boulevard landscaping may also consist of shrubs, flowers, or other ornamental plants. Except for sidewalks, walkways, benches, bus stops, kiosks, driveway [approaches](#) and signs, boulevard landscaping shall not include non-living materials.

**Explanation:**

Amending this section will better coordinate the City Engineering and Zoning regulations by using the same language for development in the rights-of-way.

#13. 20.40 – Use- and Building-Specific Standards

**20.40.050 - Enterprise Commercial Uses**

- H. All crosswalks must be striped or colored and include partial or full texturing to provide a clear visual differentiation between pedestrian walkways and vehicle driving surfaces. The cross color, grade and surface must be continued across any intersection with roads, driving corridors, parking areas, loading areas and driveway [approaches](#).

**Explanation:**

This amendment will better coordinate the City Engineering and Zoning regulations by using the same language for development in the rights-of-way.

#14. Chapter 20.60 – Parking and Access

**20.60.010 - General**

B. **Applicability**

3. **Enlargements and Expansions**

Commentary: An enlargement or expansion may trigger the need to provide or increase accessible ~~(ADA-compliant)~~ parking, as determined by the ~~city-engineer~~[City Building Division](#).

4. **Change of Use**

Commentary: A change of use may trigger the need to provide or increase accessible ~~(ADA-compliant)~~ parking, as determined by the ~~city-engineer~~[City Building Division](#).

**Explanation:**

Proposed amendments to Title 12 (Streets, Sidewalks, and Public Places) and Title 15 (Building and Construction) are removing private property accessibility standards from the purview of the City Engineering Division and placing them with the Building Division who has limited ability to administer ADA requirements through the International Building Code (IBC).

#15. 20.60 – Parking and Access

**20.60.060 - Parking Area Design**

B. Driveway [and Driveway Approaches](#)

1. Driveways must be reviewed and approved by the City Engineering Division before issuance of a zoning compliance permit [or building permit](#). ~~Driveways exceeding 150 feet in length require an additional approval from the Fire Department.~~
2. Driveways [approaches](#) from streets may not be created in residential zoning districts for parcels with access to an alley except those approved by the City Engineer due to topographic, physical or easement constraints.
3. ~~Driveways may not exceed a grade of eight percent, provided that a maximum grade of up to ten percent may be allowed for short distances, not exceeding 50 feet, if approved by the Fire Department and City Engineering Division.~~

**Explanation:**

Amending the terminology used will better coordinate the City Engineering and Zoning regulations by using the same language for development in the rights-of-way. Removing design criteria for driveways from Title 20 and keeping it in Engineering Title 12 creates consistency in locating the regulations and reduces confusion regarding the agency to enforce it. Coordination with the Fire Department will continue.

Including the words “building permit” will make sure an applicant is aware of this step.

#16. 20.60 – Parking and Access

**20.60.060 - Parking Area Design**

C. **Pedestrian Walkways**

Multi-dwelling residential, commercial, industrial and mixed use development shall provide pedestrian walkways. A system of pedestrian walkways is required to connect each primary use structure on a site to the following: adjacent public sidewalks, on-site parking lots or parking structures, other on-site primary use structures, bicycle storage areas, and common outdoor use areas. The pedestrian walkway system must comply with Municipal Code requirements ~~and City Engineering Division standards and specifications.~~

**Explanation:**

Proposed amendments to Title 12 (Streets, Sidewalks, and Public Places) and Title 15 (Building and Construction) are removing private property accessibility standards from the purview of the City Engineering Division and placing them with the Building Division for compliance.

#17. 20.60 – Parking and Access

**20.60.070 - Accessible Parking (for People with Disabilities)**

Accessible parking facilities must be provided in accordance with [Municipal Accessibility Code requirements](#) ~~and City Engineering Division standards and specifications~~ [through the City Building Division.](#)

**Explanation:**

Proposed amendments to Title 12 (Streets, Sidewalks, and Public Places) and Title 15 (Building and Construction) are removing private property accessibility standards from the purview of the City Engineering Division and placing them with the Building Division who has limited ability to administer ADA requirements through the International Building Code (IBC).

#18. 20.85 Review and Approval Procedures

**20.85.070 Conditional Uses**

**D. Application Filing**

Complete applications for conditional use approval must be filed with appropriate personnel in Development Services and include the following information:

1. Legal description of the subject property;
2. Ownership and mailing address of all owners of the subject property; and
3. All submittal materials required by the zoning officer for the conditional use review, which may include ~~elevation drawings or photographs of existing and proposed buildings, site plans including landscaping, and other~~ any materials that will help the City Council conduct a competent review and support their decision and required findings of fact including a project narrative that gives a general description of what the proposed use will entail, and specific responses on how it will impact each of the individual review criteria in section H (20.85.070H – Review Criteria) as they apply to the project site.

**Explanation:**

This amendment lets applicants know that general information about site layout and design is sufficient to enable evaluating potential impacts from a proposed land use. It focuses the conditional use approval process on the proposed land use, and relies more on existing regulations and other review processes for associated design of a project.

#19. 20.85 – Review and Approval Procedures

**20.85.070 Conditional Uses**

**G. Hearing and Final Action—City Council**

1. The City Council must hold at least one public hearing on a proposed conditional use.
2. Following the close of the hearing, at the same or subsequent meeting, the City Council must take action to approve, approve with modifications or conditions or deny the conditional use based on the review criteria of 20.85.070.H and with regard to public and agency comment (Factors to be Considered 20.85.070I). The City Council's decision must be supported by written findings of fact.
3. The City Council may act by a simple majority vote of those City Council members present and voting.

**Explanation:**

Conditional Use decisions can, and should take into consideration, public and agency comment as well as review criteria.

#20. 20.85 – Review and Approval Procedures

**20.85.070 Conditional Uses**

**H. Review Criteria**

1. Conditional use applications may be approved by the City Council only when they determine that the review criteria listed below, as applicable, have been satisfied. All of the applicable review criteria must be addressed in the City Council's findings of fact in support of their decision.

Commentary: Not all review criteria will apply in every case. Only the applicable review criteria need to be met.

2. Uses that require conditional use approval may be approved by the City Council when they determine that the proposed use:
  - ~~a. Complies with all applicable standards of this zoning ordinance;~~
  - ~~ba.~~ Is in the interest of the public convenience and will not have a significant adverse impact on ~~the general welfare of~~ the neighborhood or community;
  - ~~cb.~~ ~~Is compatible with the character of the surrounding area in terms of site planning, building scale and project design;~~ Will not impede the orderly development and improvement of the surrounding properties for uses permitted in the district;
  - ~~dc.~~ Has operating characteristics that are compatible with the surrounding area in terms of hours of operation, outdoor lighting, noise, and traffic generation; ~~and~~
  - ~~ed.~~ Will not have a significant adverse impact on traffic safety or comfort, including all modes of transport (non-motorized and motorized), and will be functional and safe in terms of pedestrian, bicycle and vehicular access, parking, loading and servicing;
  - ~~fe.~~ Is in accordance with the Growth Policy and other relevant adopted plans;
  - ~~2f.~~ That the site ~~design~~ properly addresses ~~building orientation,~~ open space, light, ~~sun exposure, views~~ and protection of natural features; and,
  - ~~3g.~~ That ~~buildings, structures and~~ uses are compatible with adjacent properties and uses in terms of physical ~~design~~ elements such as ~~volume and mass management, building materials, color,~~ open space design, screening and buffering, any applicable use-specific standard~~s~~ and any other ~~design~~ elements considered important by the City Council.

**Explanation:**

Proposed amendments are meant to focus evaluating impacts to orderly development of land use, rather than project design. Section 20.80.070.H.2.a requires, as part of a conditional use

application, that staff verify a proposal meets all zoning standards before it is considered to be a complete application. This means that design must be complete on a project before an applicant even knows that the use is approved, which raises risk and cost for development. It is also a redundant requirement, any project that requires permitting by the city will necessarily need to be reviewed for zoning in order to receive a building permit or zoning compliance permit.

Most of the Factors to be Considered are more appropriately placed under review criteria so they have some sort of weight in the decision-making process prior to the City Council review, and have been moved from Subsection I to Subsection H. Factor number one is too vague, should not be part of the review criteria, and has been deleted.

Other modifications to the criteria focus on the general relationship of the proposal on a site and in relationship to adjacent uses while de-emphasizing design details like materials and color.

#21. 20.85 – Review and Approval Procedures

**20.85.070 Conditional Uses**

**I. Factors to be Considered**

In determining whether all applicable review criteria have been satisfied, the City Council may specifically consider the following factors:

- ~~1. That new buildings and structures are located to create a positive relationship with their environment, both urban and natural;~~
- ~~2. That the site design properly addresses building orientation, open space, light, sun exposure, views and protection of natural features;~~
- ~~3. That buildings, structures and uses are compatible with adjacent properties and uses in terms of physical design elements such as volume and mass management, building materials, color, open space design, screening, any applicable use-specific standards and any other design elements considered important by the City Council;~~
- ~~4. That the overall project will be functional, attractive and safe in terms of pedestrian, bicycle and vehicular access, parking, loading, and servicing; and~~
5. Agency and public testimony.

**Explanation:**

Most of the Factors to be Considered are more appropriately placed under review criteria so they have some sort of weight in the decision-making process prior to City Council review, and have been moved from Subsection I to Subsection H.

#22. 20.85 – Review and Approval Procedures

**20.85.070 Conditional Uses**

**M. Compliance with Conditions**

At the time of zoning compliance review, projects that receive conditional use approval must:

1. Demonstrate how they will substantially comply with all conditions of approval.

a. If an applicant disagrees with staff's determination of what is substantial compliance, they may apply for an amendment as described in section 20.85.070L.

2. Comply with all applicable city regulations.

**Explanation:**

While the intent of these amendments is to generalize the review of a conditional use project the section still needs to be clear that the entirety of Title 20 and any approved conditions to a project still need to be adhered to and will be enforced at the building/zoning compliance permit stage of development. In addition, this amendment offers the applicant an option if they disagree with what staff interprets as "substantial compliance".

#23. 20.75 - Signs

**20.75.070 - Regulations of Specific Types of Signs**

**F. Dynamic Displays**

Dynamic displays on signs are allowed subject to the following regulations:

**1. Where Allowed**

~~a. Prohibited Locations~~

~~Dynamic displays are prohibited in Residential (R), Open Space (OP), Central Business District (CBD), and historic districts.~~

~~b. Allowed Locations~~

Dynamic displays are permitted for all allowed uses in B1, B2, B3, C1, C2, M1 and M2 zoning districts. Signs must be located on parcels with frontage on principal arterials not in an historic district, and are subject to the dynamic display regulations of this subsection.

**Explanation:**

Incorporating City Zoning Officer Opinion #20-01 will clarify dynamic display signs by addressing a gap in the reference to existing zones. This opinion was developed in order to clarify how dynamic display signs are addressed in B districts since the district wasn't mentioned in the "prohibited" or "where allowed" locations. After staff research we determined they are allowed in B districts as long as it is limited to frontage on principal arterials and not in an historic district.

The amendment will further clarify where dynamic display signs are permitted by removing the "Prohibited Locations" section relying on Title 20's general language located in section 20.01.070 Compliance Required, which states generally that nothing can be built or altered for any purpose other than something that is permitted in the zoning district. The amendment also makes it clear dynamic display signs are never permitted in historic districts.

#24. 20.75 - Signs

**20.75.100 - Special Signs; Review by the Design Review Board**

## B. Special Sign Classes

### 5. Building Graphics

Building Graphics may only be approved when the Design Review Board determines that the building graphic will make a positive contribution to the building and surrounding area's appearance and will otherwise be in keeping with the intent of this zoning ordinance.

a. Building Graphics are exempt from the requirement for DRB approval for the following reasons:

1. The Building Graphic is already approved by the Public Art Committee.
2. The Building Graphic is included with a project within the Design Excellence Overlay, and is being reviewed as part of a Design Excellence Review as described in 20.25.080.B.4.

#### Explanation:

With these two exemptions, the proposed artwork will have already been reviewed by a specific governing process, one, the Public Art Committee, and the second through Design Excellence Review both of which are extensive. Requiring an applicant to receive DRB approval is duplicitous and costly.

#25. 20.75 - Signs

#### 20.75.110 - Maintenance and Removal

##### ~~A. Identification Tag~~

~~Any wall or ground sign for which a permit is required by this chapter must have permanently affixed to it a permit identification tag. This tag must consist of such material that the tag itself and the identifying copy on it must remain permanent and legible. The tag must be of such size and affixed in such a location on the sign so as to allow inspection of the tag from the ground by the zoning officer. The owner of the sign is responsible for acquiring the ID tag and attaching it to the sign. The owner is likewise responsible for maintenance of the ID tag as stated in 20.75.110.B of this section.~~

#### Explanation:

Sign identification tags have not proven useful; staff would like to see the regulation removed.

#26. Chapter 20.05 - Residential Districts

#### 20.05.040 - Development Options

##### D. Townhome Exemption Development (TED)

##### 4. Notice to Neighboring Property Owners and Request for Agency Comment

The following is required for TED projects of more than 5 dwelling units:

- a. Public noticing standards found in Chapter 20.85 – Review and Approval Procedures.

Notice of the application for a zoning compliance permit for Townhome Exemption Developments must be mailed to all owners of property within 150 feet of the subject parcel at least 15 days before a permit is issued.  
(moved to 20.85.020D.2.b.1.)

- b. Relevant agencies shall be notified and given 15 days for comment before a permit is issued. This requirement does not apply to TED projects being reviewed at the same time as an associated subdivision.

**Explanation:**

In an effort to create greater consistency between processes all notice requirements will be moved to new Section 20.85.020, Notice. This action will consolidate and clarify the notification requirements for all types of projects administered by Title 20.

#27. 20.45 Accessory Uses and Structures

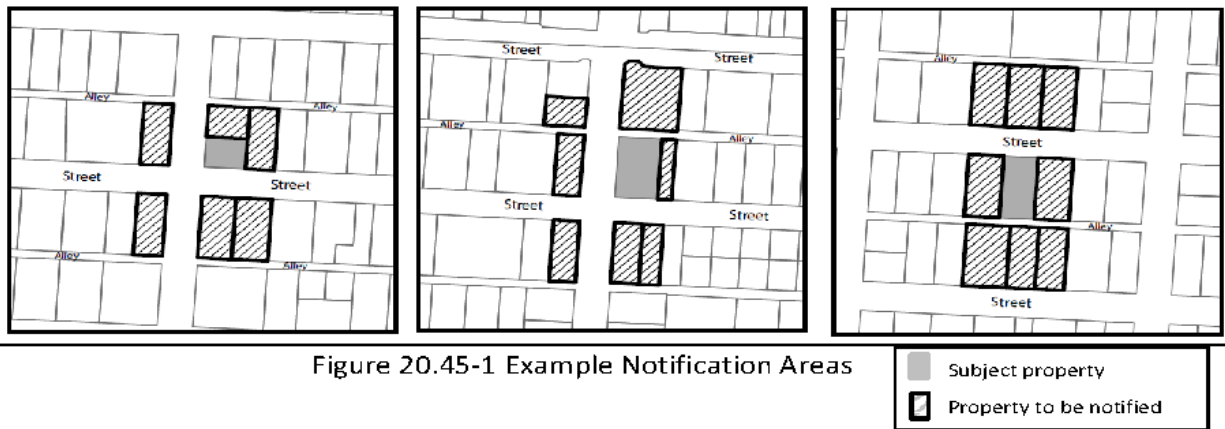
**20.45.060 - Accessory Dwelling Units**

**B. Regulations for all Accessory Dwelling Units**

**2. Where Allowed**

b. For detached and Internal Addition ADU projects in R215, R80, R40, R20, RT10, R8, R5.4 and R3 districts the applicant must notify all property owners and resident(s) one parcel deep surrounding the subject parcel, excluding adjacent R-O-W, prior to submitting the application. See figure 20.45-1 for example notification areas. The applicant must provide a written statement to Development Services regarding the manner in which the notification occurred and when.

- eb. After an ADU permit has been issued by the City, a follow up letter shall be sent by the City to the adjacent parcels, residents and owners, confirming that the ADU has been permitted.





**Explanation:**

Notification by the applicant has proven to be complicated with staff having to help each applicant figure out landowners and mailing addresses. Most times the notice is incomplete by the applicant requiring additional time and delaying the application. Staff is currently required to send notification to the surrounding parcels once the application is complete, this will continue.

Figure 20.45-1 describing how an applicant should notice will be removed, and all figures will be renumbered.

**#28. Chapter 20.85 - Review and Approval Procedures****20.85.020 – Common Provisions****D. Notice**

The purpose of this section is twofold; one, to satisfy legal requirements by providing adequate notice of governmental actions to those affected by such actions; and two, to engage the public by making them aware of proposed changes that may affect them. Notice is provided to encourage citizens to participate in decision making which affects their interests, and provides opportunity for governing agencies to receive information pertinent to an application that would not otherwise be available. Each project will be evaluated to determine the best means of outreach to the public. The City of Missoula believes that making information public and readily accessible is fundamental to demonstrating value and promoting transparency.

All noticing must be initiated fifteen (15) days prior to action being taken by a governmental agency or staff (e.g. administrative adjustment), unless otherwise expressly stated. The provisions listed below are considered minimum requirements.

**1. Content of Notice**

All required notices must:

- a. Include the name of the project;
- b. Indicate the date, time and place of the public hearing or date of action that is the subject of the notice;
- c. Describe any property involved in the application by street address or by general description;
- d. Describe the general nature, scope and purpose of the application or proposal;
- e. Name of decision-making body; and
- f. Indicate where additional information on the matter can be obtained.

**2. Types of Notice****a. Newspaper Notice**

Whenever the provisions of this zoning ordinance require that newspaper notice be provided, the notice must be published in a newspaper of general

circulation within Missoula. Two (2) legal ads shall be submitted. One (1) of the required publication dates must fall within the minimum days required.

**b. Mailed Notice**

(1) Whenever the provisions of this zoning ordinance require that notices be mailed, the notices must be sent by United States Postal Service first class mail, and must include mail to the subject property owner(s) and property owners within 150' unless otherwise noted in Table 20.85-2.

(2) Addresses must be based on the latest property ownership information available from the Montana Department of Revenue. When required notices have been properly addressed and deposited in the U.S. mail, failure of a party to receive such notice will not be grounds to invalidate any action taken. In addition to adjacent property owners, notice shall be sent to the appropriate Neighborhood Council.

**c. Posted Notice**

When the provisions of this zoning ordinance require that posted notice be provided, at least one notice sign must be posted on each public street frontage abutting the subject property in a location plainly visible to passers-by. All on-site notices must be located on the subject property outside the right-of-way and visibility triangle. It shall be the responsibility of the property owner and/or applicant to maintain the on-site notice and visibility to the public.

**3. Notice Requirements for Specific Application Types**

**Table 20.85-2**  
**Noticing Requirements for Specific Application Types**

<u>Application</u>	<u>Posted Notice</u>	<u>Mail Notice</u>	<u>Notification Distance <sup>1</sup></u>	<u>Newspaper Notice</u>	<u>Title 20 Section</u>
<u>Administrative Adjustment<sup>3</sup></u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>None</u>	<u>20.85.110</u>
<u>Annexation</u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>X</u>	<u>Post on-site</u>
<u>Appeals of Administrative Decisions<sup>3</sup></u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>X</u>	<u>20.85.100</u>
<u>Board of Adjustment (Variances and Public Forums)</u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>X</u>	<u>20.85.090</u> <u>20.85.095</u>
<u>Conditional Use</u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>X</u>	<u>20.85.070</u>
<u>Design Review Board</u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>X</u>	<u>20.85.080</u>
<u>Historic Preservation Permit</u>	<u>X</u>	<u>X</u>	<u>150'</u>	<u>X</u>	<u>20.85.085</u>

<a href="#">Planned Unit Development</a>	<a href="#">X</a>	<a href="#">X</a>	<a href="#">150'</a>	<a href="#">X</a>	<a href="#">20.85.060</a>
<a href="#">Rezoning</a>	<a href="#">X</a>	<a href="#">X</a>	<a href="#">150'</a>	<a href="#">X</a>	<a href="#">20.85.040</a>
<a href="#">Townhome Exemption Development (5 or more units)</a>	<a href="#">None</a>	<a href="#">X</a>	<a href="#">150'</a>	<a href="#">None</a>	<a href="#">20.40.180</a>
<a href="#">Zoning Text Amendment</a>	<a href="#">None</a>	<a href="#">None</a>	<a href="#">None</a>	<a href="#">X</a>	<a href="#">20.85.040</a>

**Notes:**

- [1. The distance measured from the exterior property boundary of the subject site to all or part of another parcel of land whose owners must be notified of a governmental action. This distance includes the width of a right-of-way or other public ownership.](#)
- [2. For Detached and Internal Addition ADU projects in R215, R80, R40, R20, RT10, R8, R5.4 and R3 districts the applicant must notify all property owners and resident\(s\) one parcel deep surrounding the subject parcel, excluding adjacent R-O-W, prior to submitting the application. See figure 20.85-1 for example notification areas. The applicant must provide a written statement to Development Services regarding the manner in which the notification occurred and when.](#)
- [3. The process does not include a public hearing.](#)

**Explanation:**

Creating a new sub section for notice in the Review and Approval Procedures chapter will consolidate all notification process into one location. The colocation will include a quick reference table, will help with consistency across the regulations, and will clarify process and timing. An intent statement has been added. The requirement to notify owners within 150' of a proposed project will be made consistent. Staff will continue to notice surrounding parcels regarding an approved accessory dwelling unit, but applicants will not be required to notify surrounding parcels during the application process.

The certified mail notice requirement will be removed. The process has proven time consuming for staff, expensive, and most of all ineffective. However, notification by first class mail will continue.

A directive for an applicant to maintain any required onsite notification poster by the applicant/owner has been included, and the administrative adjustment timeline has been amended to 15 days rather than 20.

#29. 20.85 Review and Approval Procedures

**20.85.020 – Common Provisions**

**DE. Public Hearing Process**

**3. Public Hearing Notices**

a. ~~News~~**paper Notice** (moved to 20.85.020D.2.)

~~Whenever the provisions of this zoning ordinance require that newspaper notice be provided, the notice must be published in a newspaper of general circulation within Missoula.~~

b. ~~Mailed~~ **Notice** (moved to 20.85.020D.2. and removed the requirement of certified mail)

~~(1) Whenever the provisions of this zoning ordinance require that notices be mailed, the notices must be sent by United States Postal Service certified first class mail.~~

~~(2) Addresses must be based on the latest property ownership information available from the Montana Department of Revenue. When required notices have been properly addressed and deposited in the U.S. mail, failure of a party to receive such notice will not be grounds to invalidate any action taken.~~

c. ~~Posted~~ **Notice** (moved to 20.85.020D.2.)

~~When the provisions of this zoning ordinance require that posted notice be provided, at least one notice sign must be posted on each public street frontage abutting the subject property in a location plainly visible to passers-by.~~

d. ~~Content of~~ **Notice** (moved to 20.85.020D.1.)

~~All required public hearing notices must:~~

~~(1) Indicate the date, time and place of the public hearing or date of action that is the subject of the notice;~~

~~(2) Describe any property involved in the application by street address or by general description;~~

~~(3) Describe the general nature, scope and purpose of the application or proposal; and~~

~~(4) Indicate where additional information on the matter can be obtained.~~

In addition to the noticing requirements of Section 20.85.020D, the following standards apply to projects subject to a public hearing:

a. **Additional Notice**

City Council or staff shall have the ability to include additional notification of area residents in the event they feel it is necessary. Notification can include public meetings, e-mail, resident mailing, additional postings, voluntary property management distribution of notice, notice on bulletin boards, on-line engagement platforms, neighborhood council meetings, and any other process deemed appropriate.

b. **Combined Notice**

Public notification for city zoning may be combined with notice of annexation.

c. **Notice of city approval.**

In order to inform adjacent property owners' and residents that an application has been approved by the city, any site approved for construction or alteration must maintain on-site notice supplied by Development Services. The notice must be

posted in a conspicuous place on site before any construction begins and may be removed after construction begins. The notice must specify the name of the project, the address of the property, a description of the scope of work approved and the date of approval.

**EF. Action by Review Bodies and Decision-Making Bodies**

**FG. Conditions of Approval**

**Explanation:**

Types of notice and their content were moved to the Common Provisions section (20.85.020, Notice). Other sections were combined and included here under the public hearing section, clarifying additional steps that may be involved when a project is required to go through a public hearing process.

#30. Chapter 20.85 - Review and Approval Procedures

**20.85.040 - Zoning Amendments**

**C. Public Hearing Notice**

Public noticing standards can be found in Section 20.85.020 – Notice.

~~1. Zoning amendments initiated in accordance with Section 20.85.040.A.1 are subject to the following:~~

~~a. **Newspaper Notice** (moved to 20.85.020D.2.)~~

~~At least two separate notices of required public hearings on zoning amendments must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3.a for additional information on published public hearing notices.)~~

~~b. **Additional Notification** (moved to 20.85.020E.3.)~~

~~The City Council shall employ additional notification processes for any zoning amendment it initiates, including neighborhood council contact, public meeting, e-mail, and posting information on the City web site. Additional notification processes may also include, but are not limited to, mailing and posting of parcel(s).~~

~~2. Zoning amendments initiated in accordance with section 20.85.040.A.2 are subject to the following:~~

~~a. **Newspaper Notice** (moved to 20.85.020D.2.)~~

~~At least two separate notices of required public hearings on zoning amendments must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3.a for additional information on published public hearing notices.)~~

~~b. **Mail Notice** (moved to 20.85.020D.2.)~~

~~Mail notice of public hearings on zoning amendments must be mailed first class to the subject property owner and physical address as well as owners and physical addresses of property within 150 feet of the subject parcels at least 15 days before the scheduled hearing. Notification must also be mailed to the neighborhood council representative for the subject neighborhood at least 15 days before the scheduled hearing. (See 20.85.020.D.3.b(2) for additional information on mailed public hearing notices, other alternative sources may be necessary to obtain physical addresses.)~~

~~c. **Posted Notice** (moved to 20.85.020D.2.)~~

~~Notice of public hearings on zoning amendments must be posted at least 15 days before the public hearing. (See 20.85.020.D.3.c for additional information on posted public hearing notices.)~~

Chapter 20.85 - Review and Approval Procedures

**20.85.040 - Zoning Amendments**

**I. Zoning Upon Annexation**

**4. Public Hearing Notice**

Public noticing standards can be found in Section 20.85.020 - Notice.

~~a. **Newspaper Notice** (moved to 20.85.020D.2.)~~

~~At least two separate notices of required public hearings on proposed city zoning must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~b. **Mailed Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on proposed city zoning must be mailed to the subject property owners at least 15 days before the scheduled hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~c. **Combined Notice** (moved to 20.85.020E.3.)~~

~~Public notification for city zoning may be combined with notice of annexation.~~

Chapter 20.85 - Review and Approval Procedures

**20.85.070 - Conditional Uses**

**E. Notice of Hearing**

Public noticing standards can be found in Section 20.85.020 – Notice.

~~1. **Newspaper Notice** (moved to 20.85.020D.2.)~~

~~At least two separate notices of required public hearings on conditional uses must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~2. **Mailed Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on conditional uses must be mailed to the subject property owner and all owners of property within 150 feet of the subject parcel at least 15 days before the scheduled hearing. Notification must also be mailed to the neighborhood council representative for the subject neighborhood at least 15 days before the scheduled hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~3. **Posted Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on conditional uses must be posted at least 15 days before the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

## Chapter 20.85 - Review and Approval Procedures

### 20.85.080 - Design Review

#### E. Notice of Hearing

Public noticing standards can be found in Section 20.85.020 – Notice.

~~1. **Newspaper Notice** (moved to 20.85.020D.2.)~~

~~At least two separate notices of required public hearings must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~2. **Mailed Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on must be mailed to the subject property owner and all owners of property within 150 feet of the subject parcel at least 15 days before the scheduled hearing. Notification must also be mailed to the neighborhood council representative for the subject neighborhood at least 15 days before the scheduled hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~3. **Posted Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings must be posted at least 15 days before the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

## Chapter 20.85 - Review and Approval Procedures

### 20.85.085 - Historic Preservation Permit (HPP)

#### E. Notice of Hearing

Public noticing standards can be found in Section 20.85.020 – Notice.

~~1. **Newspaper Notice** (moved to 20.85.020.D.2)~~

~~If a public hearing is required, at least 2 separate notices of the public hearing must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~2. **Mailed Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on the HPP must be mailed to the subject property owner and all owners of property within 150 feet of the subject parcel at least 15 days before the scheduled hearing. Notification must also be mailed to the neighborhood council representative for the subject neighborhood at least 15 days before the scheduled hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~3. **Posted Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on the HPP must be posted on site at least 15~~



~~days before the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

## Chapter 20.85 - Review and Approval Procedures

### 20.85.090 - Variances

#### E. Notice of Hearing

~~Public noticing standards can be found in Section 20.85.020 – Notice.~~

##### 1. ~~Newspaper Notice~~ (moved to 20.85.020D.2.)

~~At least two separate notices of required public hearings on zoning variance requests must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

##### 2. ~~Mailed Notice~~ (moved to 20.85.020D.2.)

~~Notice of required public hearings on zoning variance requests must be mailed to the subject property owner and all owners of property within 150 feet of the subject parcel at least 15 days before the scheduled hearing. Notification must also be mailed to the neighborhood council representative for the subject neighborhood at least 15 days before the scheduled hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

##### 3. ~~Posted Notice~~ (moved to 20.85.020D.2.)

~~Notice of required public hearings on zoning variance requests must be posted at least 15 days before the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

## Chapter 20.85 - Review and Approval Procedures

### 20.85.095 - Public Forum

#### D. Notice of Hearing

~~Public noticing standards can be found in Section 20.85.020 – Notice.~~

##### 1. ~~Newspaper Notice~~ (moved to 20.85.020D.2.)

~~At least two separate notices of required public hearings on public forum requests must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

##### 2. ~~Mailed Notice~~ (moved to 20.85.020D.2.)

~~Notice of required public hearings on public forum requests must be mailed to the subject property owner and all owners of property within 150 feet of the subject parcel at least 15 days before the scheduled hearing. Notification must also be mailed to the neighborhood council representative for the subject~~

~~neighborhood at least 15 days before the scheduled hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~3. **Posted Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on public forum requests must be posted at least 15 days before the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

## Chapter 20.85 - Review and Approval Procedures

### 20.85.100 - Appeals of Administrative Decisions

#### F. Notice of Hearing

Public noticing standards can be found in Section 20.85.020 – Notice.

~~1. **Newspaper Notice** (moved to 20.85.020D.2.)~~

~~At least two separate notices of required public hearings on appeals of administrative decisions must be published in the newspaper. The first notice must be published at least 15 days before the date of the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~2. **Mailed Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on appeals of administrative decisions must be mailed to the subject property owner and all owners of property within 150 feet of the subject parcel at least 15 days before the scheduled hearing. Notification must also be mailed to the neighborhood council representative for the subject neighborhood at least 15 days before the scheduled hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

~~3. **Posted Notice** (moved to 20.85.020D.2.)~~

~~Notice of required public hearings on appeals of administrative decisions must be posted at least 15 days before the public hearing. (See 20.85.020.D.3 for additional information on public hearing notices.)~~

## Chapter 20.85 - Review and Approval Procedures

### 20.85.110 - Administrative Adjustments

#### D. Notice

Public noticing standards can be found in Section 20.85.020 – Notice.

~~1. **Required Mailed Notice** (moved to 20.85.020D.2., and amended to 15 days noticeddays' notice instead of 20 days)~~

~~Notice of the filing of an administrative adjustment application must be mailed to the subject property owner and all owners of property within 150 feet of the subject parcel at least 20 days before a final decision or action on the administrative adjustment. Notification must also be mailed to the neighborhood council representative for the subject neighborhood at least 20~~

~~days before taking action on the matter. (See 20.85.020.D.3 for additional information on mailed notices.)~~

- ~~2. **Posted Notice** (moved to 20.85.020D.2., and amended to 15 days noticedays' notice instead of 20 days)~~  
~~Notice of the filing of an administrative adjustment application must be posted at least 20 days before a final decision or action on the administrative adjustment. (See 20.85.020.D.3 for additional information on posted notices.)~~

**Explanation:**

In an effort to create greater consistency between processes and ease of use, noticing requirements in individual chapters are being consolidated into Section 20.85.020, Notice, and will be replaced by a cross reference to Section 20.85.020. The notice section will consolidate and clarify the notification requirements for all types of projects administered by Title 20.

In addition, Section 20.85.110D (Administrative Adjustments) is being amended to reflect the standard 15-day noticing timeline making it consistent with all other notification timelines.

#31. Chapter 20.85 - Review and Approval Procedures

**20.85.110 - Administrative Adjustments**

E. **Review and Decision—Zoning Officer**

2. The zoning officer may not take final action to approve or deny an administrative adjustment application until at least 20-15 days after the date that required notices were mailed.

**Explanation:**

Staff recommends changing the notice time for an Administrative Adjustment to 15 days rather than 20. This amendment will make the noticing period consistent with all other similar noticing periods.

#32. 20.25 Overlay Districts

**20.25.075 - /NC-MDP, Missoula Development Park Overlay**

F. **Uses**

1. **M1-2 Limited Industrial District.** The following uses in Title 20, Table 20.15-1 are allowed, subject to the Title 20 approval procedure for permitted and conditional uses:
- a. All M1 uses in the groups Public/Civic, Industrial, and Other;
  - b. Only the following uses in the Commercial Group: Business Support Service, Office, Research Service, Retail Sales; and
  - c. Caretaker apartment as defined above; and,-
  - d. Light Equipment Sales/Rentals on parcels within the Airway Boulevard Corridor sub-district.

**Explanation:**

In September of 2019, Development Services reviewed an application proposing a Light Equipment Sales/Rentals use in the M1-2/NC-MDP zoning district of the Missoula Development Park Overlay. Through that process staff identified an oversight in the adoption of the /NC-MDP overlay zone, where the Light Equipment Sales/Rentals use was not specifically allowed. Development Services staff issued Zoning Officer Opinion #19-01 concluding that the Light Equipment Sales/Rentals use is permitted in areas zoned M1-2/NC-MDP along the Airway Boulevard Corridor Sub-district, and noted that Title 20 would be amended to reflect this opinion in the next maintenance cycle. This amendment modifies Title 20 to reflect Zoning Officer Opinion #19-01.

#33. 20.25 Overlay Districts

**20.25.080 - /DE, Design Excellence Overlay - Generally**

C. **Standards, Interpretation**

6. **Material Coverage**

a. **General**

(1) **Intent**

To ensure that a building's facade design reflects Missoula's location and character by incorporating traditional and locally significant materials.

(2) **Applicability**

All building facades must comply with material coverage standards.

(3) **Measurement**

Material coverage is calculated as the total-net facade area clad in the regulated material, divided by the total facade area, excluding glazing.

(4) **Standards**

All building facades must meet the minimum and maximum material coverage requirements listed for the applicable subdistrict.

**Explanation:**

Glazing is not considered façade material and should not be included in the material coverage calculation. To obtain a percentage based on material, glazing must be removed from the calculation. The proposed amendment clarifies the regulation.

#34. 20.40 Use- and Building-Specific Standards

**20.40.050 - Enterprise Commercial Uses**

Commentary: While existing EC overlay zoning districts (approved prior to November 4, 2009) may be shown on zoning maps, no new EC overlay districts or expansions of existing EC overlay districts may be approved after November 4, 2009.

- A. The standards of this section apply in C1, C2, M1R, and M1, zoning districts when a new enterprise commercial use is established or an existing enterprise commercial use is expanded by more than 20% of its existing gross floor area over the gross floor area that existed on November 4, 2009. Enterprise commercial uses standards do not apply to vertical mixed-use buildings or to residential buildings.

**Explanation:**

Enterprise commercial overlays have been removed from the zoning map and the existing commentary language is unnecessary. In addition, EC projects are no longer administered by an overlay process, but are considered conditional and permitted uses. The text needs to be updated to be consistent with that change.

## #35. 20.50 - Natural Resource Protection

**20.50.010 - Hillside Protection****B. Applicability**

The hillside protection standards of this section apply to any parcel building and disturbance area with a natural, existing or finished average slopes of 15% or greater, except for the following development options:-

1. Development proposing a single unit on an R zoned parcel shall determine applicability based on building and disturbance area and will be subject to sections 20.50.010E-L and review shall be limited to the building and disturbance area.
2. Development proposed on parcels created prior to March 22, 1999 (adoption of Hillside Design Standards) shall be subject to sections 20.50.010G-L and review shall be limited to the building and disturbance area.

Commentary: Providing information depicting the average slope of a parcel is not required unless the planning office has a question regarding the applicability of Section 20.50.010, Hillside Protection.

**Explanation:**

There has been confusion about when a project is subject to the Hillside Protection regulations, and if subject to the chapter, which sections apply to which types of projects. The proposed amendments will clarify the applicability section.

## #36. 20.65 - Landscaping

**20.65.020 - General Site Landscaping****C. Activity Area Requirements for Multi-dwelling Houses and Multi-dwelling Buildings**

In addition to the general site landscaping requirements of 20.65.020, the following provisions apply to multi-dwelling houses and multi-dwelling building developments that include ten or more dwelling units:

1. Provide at least 20% of the parcel as activity area. This activity area requirement may be satisfied by the following:
  - d. Garden areas may be counted toward satisfying the activity area requirements of this section if:
    - (1) Tool storage areas are provided for common use by residents;
    - (2) Appropriate fencing is provided to exclude deer and pets;
    - (3) Access to water (hose bib) is centrally located to all garden beds;

and

(34) Topsoil of adequate quality and depth is provided ([contact Missoula Parks and Recreation Department](#)); and

(5) [The garden area is located in an area to receive adequate sunlight throughout the growing season \(contact Missoula Parks and Recreation Department\).](#)

**Explanation:**

Including these regulations will make it more clear that garden areas need to be useful and not placed on an out of the way or small remnant of the parcel.

#37. 20.65 - Landscaping

**20.65.100 - Alternative Compliance**

An applicant proposing to deviate from strict compliance with the landscaping requirements of this chapter may do one of the following:

- B. Submit a landscape plan, covering the limits of the project, prepared and stamped by a landscape architect licensed in the State of Montana.
  - 1. This exemption does not apply to section 20.65.070 screening or section 20.65.020.C, activity areas for multi-dwelling developments.
  - 2. When a landscape architect is used to deviate from the landscaping chapter a list detailing the sections being deviated from, [and an explanation of how the proposed deviation meets the intent of this chapter](#), must be provided to Development Services at the time of permit application.

**Explanation:**

Local landscape architects find it difficult to work with this exception and have expressed to the Parks and Recreation Department an interest in changing the regulations to clarify how the proposed alternative meets the intent.

#38. 20.90 - Administration

**20.90.020 - Design Review Board**

**C. Membership**

- 1. The Design Review Board must consist of seven regular members and one alternate member, all of whom reside in the city [or the unincorporated county.](#) [When deciding on a member, the City Council may prioritize a city resident.](#) ~~who~~ [Membership](#) shall represent the following four categories:
  - a. At least two members shall be from these design and planning professions:
    - (1) Licensed architect;
    - (2) Licensed landscape architect;
    - (3) Urban planner;
    - (4) Urban designer.

- b. At least one member shall be from these construction and building fields:
  - (1) Licensed civil engineer;
  - (2) Licensed contractor;
  - (3) Builder/Developer.
- c. At least one member shall represent the profession of graphic design, signage or wayfinding.
- d. No more than one member shall represent the community at large and not be from the above listed professions.

**Explanation:**

The Design Review Board has had a history of difficulty filling and keeping positions filled. Having a members experience and profession is more important for the board than residency, making this change will allow the positions to be more flexible. Additional language is included allowing the City Council to prioritize a city applicant in the decision-making process if they choose.

#39. 20.105 Use Classification

**20.105.030 - Public and Civic Use Group**

**M. Utilities and Services**

**1. Minor**

Infrastructure services that need to be located in the area where the service is provided. Minor utilities and services generally do not have regular employees at the site and typically have few if any impacts on surrounding areas. Typical uses include water and sewer pump stations; minor water towers and reservoirs; minor electrical substations, including small scale solar energy conversion systems; water conveyance systems; stormwater facilities and conveyance systems; telephone switching equipment and emergency communication broadcast facilities; [and includes the equipment necessary to allow the facility to function, like communication towers and associated equipment](#). Bus and rail passenger facilities for local or subregional service, such as Mountain Line stops and transfer centers, are classified as "minor utilities and services."

**Explanation:**

Amending this section as noted will allow minor utilities to take advantage of technology that is constantly changing and becoming more digital, allowing them to continue to function without being required to get a permit for necessary accessory equipment.

**Codification instructions:** Please remove all amendment reference numbers (e.g. #1, #27, and #32) and "Explanation" paragraphs prior to codification.

**Effective date.** The provisions of this ordinance shall be effective in 30 days after adoption.

**Severability.** If any selection, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

PASSED by a \_\_\_Ayes, \_\_\_Nays, Abstain and \_\_\_absent vote and  
APPROVED by the Mayor this \_\_\_ day of \_\_\_, 2020.

ATTEST:

APPROVED:

Martha L. Rehbein

John Engen

City Clerk

Mayor

(SEAL)